

EEOICPA BULLETIN NO.02-03

Issue Date: April 1, 2002

Effective Date: March 22, 2002

Expiration Date: April 1, 2003

Subject: NIOSH Referral Summary

Background: The Claims Examiners (CEs) in the District Offices are required by EEOICPA Section 7384n(d)(1) (and 20 CFR 30.115(a)) to forward claimant's application package to NIOSH for dose reconstruction. The NIOSH Referral Summary (shown in Attachment 1) replaces the Statement of Accepted Facts (SOAF), which has been used to transmit case files to NIOSH. The SOAF will now be used primarily for medical referrals. The NIOSH Referral Summary is a tabular form containing the medical and employment information accepted by the CE as factual. This form will provide NIOSH with the necessary information to proceed with the dose reconstruction process.

Much of the information in the NIOSH Referral Summary is entered into ECMS. The intent in the future is to automate the NIOSH Referral Summary and have most, if not all, of the fields entered electronically from ECMS.

Reference: Energy Employees Occupational Illness Compensation Program Act of 2000, As Amended, 42 U.S.C. § 7384 *et seq.*, Section 7384n(d)(1) (and 20 CFR 30.115(a)).

Purpose: To notify the District Offices of the NIOSH Referral Summary to be used for sending cases to NIOSH for dose reconstruction.

Applicability: All staff._

Actions:

1. Attached to this bulletin is the NIOSH Referral Summary (Attachment 1). This tabular form contains the medical and employment information accepted by the CE as factual.
2. The NIOSH Referral Summary should include information on the Energy Employee (EE) including the employee's full name, gender, date of birth, date of death (if applicable), and address and phone number (if applicable). In cases involving survivors (there may be one or more), provide contact information including the full name, address, and phone number. In cases of multiple survivors, indicate which survivor would prefer to be contacted (if known), e.g., because they are the most knowledgeable or accessible by phone. Also, if the CE is aware of other contacts, including other family members, co-workers, representatives, attorneys, and people providing affidavits, the CE should provide the full name, address, and phone number for each person. For all phone numbers discussed above, the phone type should be entered on the form in the block following the phone number, e.g., home, work, cell, day, evening, vacation home. This is helpful when there are multiple contact numbers listed.
3. The NIOSH Referral Summary should include the findings of the CE concerning medical factors. The medical information should include, for each cancer: whether it is primary or secondary (use a "X"), cancer description or type, along with the ICD-9 code, and the date of diagnosis. List all primary cancers, or all secondary cancers if no primary cancers are determined. It is not necessary to list the secondary cancers if there are primary cancers established. For the date of cancer diagnosis, the year of diagnosis is required, but the full date should be entered, if possible. Other covered conditions should be indicated (by a "X") when a SEC cancer claim is submitted, but the claimant is filing for non-SEC cancer medical benefits, or in case of other claim benefits scenarios (details can be provided on the form).
4. The NIOSH Referral Summary should include the findings of the CE regarding the employee's verified employment period for each DOE or AWE employment period. For each employment period include: employer/facility name, start and end date at the facility, employee number (if available from EE-3), dosimetry badge number (if available from EE-3), and the employee's job title (the description is not required). Verified employment could extend beyond the covered employment periods. It is no

longer necessary to provide NIOSH with the covered periods, as dose reconstruction will be performed for all verified employment. When applicable, the CE should select the facility name from the Federal Register Notice of List of Facilities Covered by the Energy Employees Occupational Illness Compensation Act of 2000. Also, indicate information related to the method of employment verification (with a "X"), i.e., DOE could not verify employment, employment verification based on affidavit or other credible evidence, or employee worked for a sub/sub contractor not listed in DOE Office of Worker Advocacy facility online database.

5. Other information that is relevant to NIOSH dose reconstruction includes race/ethnicity information (for skin cancer) and smoking history (for lung cancer). These cancers may be either primary or secondary cancers (sites to which a malignant cancer has spread). The CE should develop this information only for individuals with skin or lung cancers. The CE should request this information from the claimant early in the process so that it is available when the case is sent to NIOSH. A sample development letter for skin cancer claimants is shown in Attachment 2. A sample development letter for lung cancer claimants is shown in Attachment 3. For the race/ethnicity information, mark one or more of the five designations shown on the NIOSH Referral Summary (Attachment 1). For the smoking history, indicate the smoking level (at the time of cancer diagnosis) using one of the seven designations shown in the NIOSH Referral Summary (Attachment 1). The smoking categories include: Never Smoked - employee who smoked no more than 100 cigarettes before the date of cancer diagnosis; Former Smoker - employee who quit smoking more than five years before the date of cancer diagnosis; and Current Smoker - employee who smoked cigarettes at the time of the cancer diagnosis or who quit smoking fewer than five years before the date of the cancer diagnosis (the cigarettesmoking level should be designated as one of the following: less than 10 per day, 10 - 19 per day, 20 - 39 per day, or 40 or more per day).

6. For pertinent cases already sent to NIOSH that did not have race/ethnicity or smoking history information, the CEs must develop that information. The National Office will use ECMS to sort cases already sent to NIOSH. The National Office will provide the District Office with a list of cases requiring race or ethnicity information or smoking history. Once received, the DO should send development letters to all of those individuals identified. When the information is received from the claimant, the CE should complete a new NIOSH Referral Summary with the

race/ethnicity and smoking history sections completed. The new form should then be forwarded to NIOSH along with the weekly packages.

7. Finally, at the bottom of the NIOSH Referral Summary, provide the information related to the CE's completion of this summary, which includes the District Office, the CE's name and direct dial phone number, and the date prepared. On a temporary basis, a review by the supervisor is required. The reviewer's name and the date of the review should be noted.

8. The evidence in file must support any finding made by the CE and documented in the NIOSH Referral Summary. The CE should make a copy of the NIOSH Referral Summary and place it in the case file record.

Disposition: Retain until incorporated in the Federal (EEOICPA) Procedure Manual.

PETER M. TURCIC
Director, Division of Energy Employees
Occupational Illness Compensation

NIOSH Referral Summary Document

DOL Case Number: [Energy Employee (EE) SSN]

Case File Contact Information:

Energy Employee:

EE Full Name: [First, Middle, Last, Suffix]		
EE Gender: [M, F, U]		
Date of Birth: [Month, Day, Year]		
Date of Death (If applicable): [Month, Day, Year]		
EE Full Address (If applicable): [Street Address, City, State, Zip]		
EE Phone Number (If applicable): [Phone Number, Phone Type]		

Survivor(s) (SV) [Create a table for each SV]:

SV Full Name (s) (If applicable): [First, Middle, Last, Suffix]		
SV Full Address (If applicable): [Street Address, City, State, Zip]		
SV Phone Number (If applicable): [Phone Number, Phone Type]		
SV Relationship (If applicable): [Relationship]		

Other Contact(s) (OC) [Create a table for each OC]:

OC Full Name (s) (If applicable):		
OC Full Address (If applicable): [Street Address, City, State, Zip]		
OC Phone Number (If applicable): [Phone Number, Phone Type]		
OC Relationship (If applicable): [Relationship]		

Medical and Employment Information:

EE Covered Cancer Information [For each cancer, list the following information]:

Primary [] or Secondary (Metastatic) []	
Cancer Description / Type	
Associated ICD-9 Code	
Date of Cancer Diagnosis	

Other Covered Condition:

SEC Cancer Claim, but filing for Non-SEC cancer medical benefits []
Other claim for benefits scenario []

Energy Employee Verified Employment History:

Verified Employment Period (List all breaks in employment at the DOE or AWE Facility):

Employer / Facility Name	
Start Date at the Facility (Full Date if Possible)	
End Date at the Facility (Full Date if Possible)	
Employment Badge Number (If available)	
Dosimetry Badge Number (If available)	
Job Title (Description not required)	

Employer / Facility Name	
Start Date at the Facility (Full Date if Possible)	
End Date at the Facility (Full Date if Possible)	
Employment Badge Number (If available)	
Dosimetry Badge Number (If available)	
Job Title (Description not required)	

Employer / Facility Name	
Start Date at the Facility (Full Date if Possible)	
End Date at the Facility (Full Date if Possible)	
Employment Badge Number (If available)	
Dosimetry Badge Number (If available)	
Job Title (Description not required)	

Employment Verification Information Valuable to NIOSH:

<input type="checkbox"/> DOE could not verify employment
<input type="checkbox"/> Employment Verification based upon Affidavit or Other Credible Evidence.
<input type="checkbox"/> EE worked for a sub/sub contractor not listed in DOE Office of Worker Advocacy facility online database.

Other Information Relevant to NIOSH Dose Reconstruction, if Available:

If the claim is for skin cancer or a secondary cancer for which skin cancer is a likely primary cancer, list one or more of the following:	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian or Native Hawaiian or Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> White-Hispanic <input type="checkbox"/> White-Non-Hispanic <input type="checkbox"/> Not given
If the claim is for lung cancer or a secondary cancer for which lung cancer is a likely primary cancer, select one of the following (Note: Currently refers to time of cancer diagnosis):	<input type="checkbox"/> Never smoked <input type="checkbox"/> Former smoker <input type="checkbox"/> Current smoker (? cig/day) <input type="checkbox"/> <10 cig/day (currently) <input type="checkbox"/> 0-19 cig/day (currently) <input type="checkbox"/> 20-39 cig/day (currently) <input type="checkbox"/> 40+ cig/day (currently)

DOL Information:

District Office	
Claims Examiner Name	
Claims Examiner Phone Number	
Date Prepared for NIOSH	
Reviewed By	

U. S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

OFFICE OF WORKERS' COMPENSATION PROGRAMS
DIVISION OF ENERGY EMPLOYEES' OCCUPATIONAL
ILLNESS COMPENSATION
200 CONSTITUTION AVE
ROOM C-4511
WASHINGTON DC 20210
TELEPHONE: (202) 693-0081



March 28, 2002

Employee:
File Number:

JOE CLAIMANT
1234 W. MAIN STREET
WASHINGTON, D.C.

Dear Mr. Claimant:

This letter concerns your claim for compensation under the Energy Employees Occupational Illness Compensation Program. We have reviewed the claim and found that the exposed employee was diagnosed with skin cancer.

The next step in determining whether you are eligible for benefits is calculating whether the diagnosed cancer is reasonably related to exposure to radioactive materials during the course of covered employment. The calculation of probability of causation is based on many factors, such as the length of exposure and proximity to radiological sources, safety protection worn, the type of cancer diagnosed, etc.

We calculate the probability of causation by using a computer program to determine whether the diagnosed cancer is reasonably related to exposure during covered employment. For certain types of cancer, such as skin cancer or a cancer which has spread to more than one location in the body, the computer program requires that we include information about the exposed employee's race or ethnic identification as an additional factor in order to complete the calculation.

Therefore, we are asking you to complete the attached questionnaire in full and return it to the address that appears at the bottom of the questionnaire. Please return the questionnaire within 30 days to avoid any delay in the claims process.

It is important that you complete the questionnaire and return it to us so that we can perform the probability of causation calculation. If we do not receive a fully completed questionnaire,

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Attachment 2

we will be unable to perform a calculation of probability. Without a calculation of probability, we will not be able to determine whether you are entitled to benefits under this program and no award of benefits will be made.

Remember as the claimant, it is ultimately your responsibility to submit the necessary information to establish a claim under the EEOICPA. If you have any questions or concerns, please contact the District Office at XXX-XXX-XXXX or fax XXX-XXX-XXXX.

Sincerely,

Claims Examiner

Employee:
File Number:

The National Institute for Occupational Safety and Health (NIOSH) has developed a computer program known as the Interactive Radioepidemiological Program (IREP) that is used to calculate the probability of causation between a diagnosed cancer and employment. More information can be obtained about this program by contacting NIOSH at 1-800-35-NIOSH.

For skin cancer claims, racial or ethnic identification is necessary to accurately perform the IREP calculation. It is a required element of the computer program. In order to proceed with a determination of causation, please mark the box(es) that best match(es) the racial or ethnic identification of the employee named above:

- ☐ American Indian or Alaskan Native
- ☐ Asian, or Native Hawaiian or Other Pacific Islander
- ☐ Black or African Decent
- ☐ Hispanic
- ☐ White or Caucasian

Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under the EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

I certify that the information provided is accurate and true.

Print Name _____

Signature _____

Date _____

Return to: [Insert District Office address]

U. S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

OFFICE OF WORKERS' COMPENSATION PROGRAMS
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ILLNESS COMPENSATION
200 CONSTITUTION AVE
ROOM C-4511
WASHINGTON DC 20210
TELEPHONE: (202) 693-0081



March 28, 2002

Employee:
File Number:

JOE CLAIMANT
1234 W. MAIN STREET
WASHINGTON, D.C.

Dear Mr. Claimant:

This letter concerns your claim for compensation under the Energy Employees Occupational Illness Compensation Program.

We have reviewed the claim and found that the exposed employee was diagnosed with one of the following:

- Primary Trachea
- Bronchus
- Lung

The next step in determining whether you are eligible for benefits is calculating whether the diagnosed cancer is reasonably related to exposure to radioactive materials during the course of covered employment. The calculation of probability of causation is based on many factors, such as the length of exposure and proximity to radiological sources, safety protection worn, the type of cancer diagnosed, etc.

We calculate the probability of causation by using a computer program to determine whether the diagnosed cancer is reasonably related to exposure during covered employment. For a claim involving primary trachea, bronchus, or lung cancer or cancers that have spread to more than one location in the body, the computer program requires that we include information about the employee's smoking history prior to the diagnosis of cancer.

Therefore, we are asking you to complete the attached questionnaire in full and return it to the address that appears at the bottom of the questionnaire. Please return the questionnaire within 30 days to avoid any delay in the claims process.

It is important that you complete the questionnaire in full and return it to us so that we can perform the probability of

causation calculation. If we do not receive a fully completed questionnaire, we will be unable to perform a calculation of probability. Without a calculation of probability, we will not be able to determine whether you are entitled to benefits under this program and no award of benefits will be made.

Remember as the claimant, it is ultimately your responsibility to submit the necessary information to establish a claim under the EEOICPA. If you have any questions or concerns, please contact the District Office at XXX-XXX-XXXX or fax 202-693-1465.

Sincerely,

Claims Examiner

Employee:
File Number:

1. Check the box that best describes the smoking history of the employee named above.

☐ **Never Smoked** - Employee who smoked no more than 100 cigarettes before the date of cancer diagnosis.

☐ **Former Smoker** - Employee who quit smoking more than five years before the date of cancer diagnosis

☐ **Current Cigarette Smoker** - Employee who smoked cigarettes at the time of the cancer diagnosis or who quit smoking fewer than five years before the date of the cancer diagnosis

2. If you checked **Current Cigarette Smoker** above, please check the box below that corresponds with the number of cigarettes smoked per day at the time of the cancer diagnosis:

<input type="checkbox"/>	Less than 10 per day
<input type="checkbox"/>	10 - 19 per day
<input type="checkbox"/>	20 - 39 per day
<input type="checkbox"/>	40+ per day

* Generally 20 Cigarettes Per Pack

Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under the EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

I certify that the information provided is accurate and true.

Print Name _____

Signature _____

Date _____

Return to: [Insert District Office address]